

AMENDED IN ASSEMBLY AUGUST 16, 2010

AMENDED IN ASSEMBLY JUNE 10, 2010

SENATE BILL

No. 938

Introduced by Senator Huff

February 2, 2010

An act to amend Sections 1808.4 and 2431 of the Vehicle Code, relating to the Department of Motor Vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 938, as amended, Huff. Department of Motor Vehicles: records: confidentiality.

(1) Existing law prohibits the disclosure of the home addresses of certain public employees and officials that appear in any records of the Department of Motor Vehicles, except to a court, a law enforcement agency, an attorney in a civil or criminal action under certain circumstances, and certain other official entities. Existing law prohibits the disclosure of the home address of the spouse or child of those specified public employees and officials, and of the surviving spouse or child of a peace officer who died in the line of duty.

This bill would allow disclosure of the home addresses of those spouses, surviving spouses, or children if they were convicted of a crime and are on active parole or probation. *The bill would require the person requesting confidentiality for their spouse or child, on or after January 1, 2011, to declare, at the time the request is made, whether their spouse or child has been convicted of a crime and is on active parole or probation.* The bill would specify that *neither the department nor the listed person's employer is not required to verify or be responsible for* verifying that the specified person was convicted of a crime and on active parole or probation.

(2) Existing law requires the commissioner of the California Highway Patrol, for the purpose of conducting criminal history and driver history screening of tow truck drivers and employers to utilize the California Law Enforcement Telecommunications System (CLETS) to conduct preliminary criminal history checks.

This bill would delete this requirement.

Existing law requires the Department of the California Highway Patrol to issue a 90-day temporary tow truck driver certificate, provided by the Department of Motor Vehicles, to applicants who have cleared, among other things, the preliminary criminal history check through CLETS.

This bill instead would require the department to issue the 90-day temporary tow truck driver certificate to applicants who have cleared, among other things, a criminal history check through the Department of Justice.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1808.4 of the Vehicle Code is amended
2 to read:
3 1808.4. (a) For all of the following persons, his or her home
4 address that appears in a record of the department is confidential
5 if the person requests the confidentiality of that information:
6 (1) Attorney General.
7 (2) State Public Defender.
8 (3) A Member of the Legislature.
9 (4) A judge or court commissioner.
10 (5) A district attorney.
11 (6) A public defender.
12 (7) An attorney employed by the Department of Justice, the
13 office of the State Public Defender, or a county office of the district
14 attorney or public defender.
15 (8) A city attorney and an attorney who submits verification
16 from his or her public employer that the attorney represents the
17 city in matters that routinely place the attorney in personal contact
18 with persons under investigation for, charged with, or convicted
19 of, committing criminal acts, if that attorney is employed by a city
20 attorney.

1 (9) A nonsworn police dispatcher.

2 (10) A child abuse investigator or social worker, working in
3 child protective services within a social services department.

4 (11) An active or retired peace officer, as defined in Chapter
5 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal
6 Code.

7 (12) An employee of the Department of Corrections and
8 Rehabilitation, Division of Juvenile Facilities, or the Prison
9 Industry Authority specified in Sections 20403 and 20405 of the
10 Government Code.

11 (13) A nonsworn employee of a city police department, a county
12 sheriff's office, the Department of the California Highway Patrol,
13 a federal, state, or local detention facility, or a local juvenile hall,
14 camp, ranch, or home, who submits agency verification that, in
15 the normal course of his or her employment, he or she controls or
16 supervises inmates or is required to have a prisoner in his or her
17 care or custody.

18 (14) A county counsel assigned to child abuse cases.

19 (15) An investigator employed by the Department of Justice, a
20 county district attorney, or a county public defender.

21 (16) A member of a city council.

22 (17) A member of a board of supervisors.

23 (18) A federal prosecutor, criminal investigator, or National
24 Park Service Ranger working in this state.

25 (19) An active or retired city enforcement officer engaged in
26 the enforcement of the Vehicle Code or municipal parking
27 ordinances.

28 (20) An employee of a trial court.

29 (21) A psychiatric social worker employed by a county.

30 (22) A police or sheriff department employee designated by the
31 Chief of Police of the department or the sheriff of the county as
32 being in a sensitive position. A designation pursuant to this
33 paragraph shall, for purposes of this section, remain in effect for
34 three years subject to additional designations that, for purposes of
35 this section, shall remain in effect for additional three-year periods.

36 (23) A state employee in one of the following classifications:

37 (A) Licensing Registration Examiner, Department of Motor
38 Vehicles.

39 (B) Motor Carrier Specialist 1, Department of the California
40 Highway Patrol.

1 (C) Museum Security Officer and Supervising Museum Security
2 Officer.

3 (24) (A) The spouse or child of a person listed in paragraphs
4 (1) to (23), inclusive, regardless of the spouse's or child's place
5 of residence.

6 (B) The surviving spouse or child of a peace officer, as defined
7 in Chapter 4.5 (commencing with Section 830) of Title 3 of Part
8 2 of the Penal Code, if the peace officer died in the line of duty.

9 (C) (i) Subparagraphs (A) and (B) shall not apply if the person
10 listed in those subparagraphs was convicted of a crime and is on
11 active parole or probation.

12 *(ii) For requests made on or after January 1, 2011, the person*
13 *requesting confidentiality for their spouse or child listed in*
14 *subparagraph (A) or (B) shall declare, at the time of the request*
15 *for confidentiality, whether the spouse or child has been convicted*
16 *of a crime and is on active parole or probation.*

17 ~~(ii) The department shall not be responsible for verifying that~~
18 *(iii) Neither the listed person's employer nor the department*
19 *shall be required to verify, or be responsible for verifying, that a*
20 *person listed in subparagraph (A) or (B) was convicted of a crime*
21 *and is on active parole or probation.*

22 (b) The confidential home address of a person listed in
23 subdivision (a) shall not be disclosed, except to any of the
24 following:

25 (1) A court.

26 (2) A law enforcement agency.

27 (3) The State Board of Equalization.

28 (4) An attorney in a civil or criminal action that demonstrates
29 to a court the need for the home address, if the disclosure is made
30 pursuant to a subpoena.

31 (5) A governmental agency to which, under any provision of
32 law, information is required to be furnished from records
33 maintained by the department.

34 (c) (1) A record of the department containing a confidential
35 home address shall be open to public inspection, as provided in
36 Section 1808, if the address is completely obliterated or otherwise
37 removed from the record.

38 (2) Following termination of office or employment, a
39 confidential home address shall be withheld from public inspection
40 for three years, unless the termination is the result of conviction

1 of a criminal offense. If the termination or separation is the result
2 of the filing of a criminal complaint, a confidential home address
3 shall be withheld from public inspection during the time in which
4 the terminated individual may file an appeal from termination,
5 while an appeal from termination is ongoing, and until the appeal
6 process is exhausted, after which confidentiality shall be at the
7 discretion of the employing agency if the termination or separation
8 is upheld. Upon reinstatement to an office or employment, the
9 protections of this section are available.

10 (3) With respect to a retired peace officer, his or her home
11 address shall be withheld from public inspection permanently upon
12 request of confidentiality at the time the information would
13 otherwise be opened. The home address of the surviving spouse
14 or child listed in subparagraph (B) of paragraph (24) of subdivision
15 (a) shall be withheld from public inspection for three years
16 following the death of the peace officer.

17 (4) The department shall inform a person who requests a
18 confidential home address what agency the individual whose
19 address was requested is employed by or the court at which the
20 judge or court commissioner presides.

21 (d) A violation of subdivision (a) by the disclosure of the
22 confidential home address of a peace officer, as specified in
23 paragraph (11) of subdivision (a), a nonsworn employee of the
24 city police department or county sheriff's office, or the spouses or
25 children of these persons, including, but not limited to, the
26 surviving spouse or child listed in subparagraph (B) of paragraph
27 (24) of subdivision (a), that results in bodily injury to the peace
28 officer, employee of the city police department or county sheriff's
29 office, or the spouses or children of these persons is a felony.

30 SEC. 2. Section 2431 of the Vehicle Code is amended to read:

31 2431. (a) For the purposes of conducting criminal history and
32 driver history screening of tow truck drivers and employers, the
33 commissioner shall do all of the following:

34 (1) Obtain fingerprints from tow truck drivers and employers.
35 The fingerprint cards will be submitted to the Department of Justice
36 for criminal history checks.

37 (2) Obtain a second set of fingerprints from applicants who have
38 not continuously resided in the state for the previous seven years,
39 and submit that card to the Federal Bureau of Investigation for
40 out-of-state criminal history checks. The department may charge

1 a fee sufficient to cover the additional expense of processing the
2 fingerprint cards through the Federal Bureau of Investigation.

3 (3) Verify that the tow truck driver or employer, or both, have
4 a valid California driver's license, through the use of the automated
5 records system.

6 (b) On and after July 1, 1992, all tow truck drivers shall submit
7 an application for the issuance of a tow truck driver certificate
8 with the department and pay an application fee equal to the actual
9 costs of a criminal history check and issuance of the tow truck
10 driver's certificate, but not more than fifty dollars (\$50). Applicants
11 for the renewal of an expired tow truck driver certificate or
12 applicants for a duplicate tow truck driver certificate shall submit
13 an application for issuance of a new tow truck driver certificate to
14 the Department of Motor Vehicles and pay an application fee of
15 twelve dollars (\$12).

16 All fees collected pursuant to this section shall be deposited in
17 the Motor Vehicle Account in the State Transportation Fund. An
18 amount equal to the fees paid shall be made available, upon
19 appropriation, to the Department of Motor Vehicles for its
20 administrative costs, for the cost of criminal history checks to be
21 conducted by the Department of Justice, and to the department for
22 its administrative costs. In no case shall the fees collected exceed
23 the costs of administering this section.

24 (c) Applicants for an original tow truck driver certificate shall
25 be fingerprinted by the department, on a form issued by the
26 department, for submission to the Department of Justice for the
27 purpose of determining whether the applicant has been convicted
28 for a violation of a crime specified in paragraph (1), (2), (3), or
29 (4) of subdivision (a) of Section 13377.

30 (d) Information released to the department or the Department
31 of Motor Vehicles shall be related to their inquiry and shall remain
32 confidential.

33 (e) The department shall issue a temporary tow truck driver
34 certificate, provided by the Department of Motor Vehicles, to
35 applicants who have cleared the specified criminal history check
36 pursuant to paragraph (1) of subdivision (a) and the driver history
37 check through the automated records system, and who meet all
38 other applicable provisions of this code. The term of the temporary

- 1 tow truck driver's certificate shall be for a period of 90 days from
- 2 the date of issuance.

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